

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5939 OF 1996

Mr.Ramesh Chamundray Ruge.....		Petitioner
V/s		
The State of Maharashtra & Ors....		Respondents.

Mr.A.M.Joshi, Adv. for the petitioner.

Mr.A.V.Bukhari ' with Mr.GT.S.Ingale, Adv. For respondent Nos. 3 and 4.

CORAM: A.P. DESHPANDE, J.

13.4.2007

ORAL JUDGMENT:

The petitioner takes exception to the judgment and order passed by the Presiding Officer, School Tribunal, Solapur, dated 6.9.1996 dismissing the appeal filed by the petitioner under section 9 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 (the "Act").

2. The petitioner was appointed as a lecturer in mechanical engineering in polytechnic in respondent-college as and from 28.9.1991. According to the petitioner no appointment order was issued to him though he demanded it on several occasions. The petitioner was paid consolidated salary of Rs.1600/- per month. According to the petitioner his services came to be orally terminated with effect from 30.6.1993 i.e. from the end of academic session 1992-93. On own showing of the petitioner, the petitioner had not completed two years in service prior to termination. Aggrieved by the termination as stated herein above the petitioner preferred an appeal before the Tribunal

making a prayer for quashing of termination and grant of reinstatement.

3. The petitioner was possessed of qualification of bachelor' s degree in engineering in mechanical branch with higher second class, the percentage of marks of the petitioner being 57.75. The petitioner had passed the bachelor' s degree in engineering in May, 1991. On the other hand the respondent submitted that in the first place the Tribunal had no jurisdiction to entertain the appeal as ` polytechnic' does not satisfy the test of a private school as laid down under the Act. It was then contended that the petitioner was not selected by a duly constituted selection committee and the appointment of the petitioner was temporary and ad-hoc in nature and lastly it was contended that the petitioner was not duly qualified for being appointed as lecturer to teach diploma courses in engineering. The Tribunal has held that the qualification prescribed for the post of lecturer in polytechnic is first class bachelor' s degree in appropriate branch of engineering/technology and as the petitioner did not possess the said qualification he was not eligible for being appointed to the post of lecturer.

4. Learned counsel for the petitioner has placed reliance on Government Resolution dated 26.5.1992 to point out that the qualification of first class bachelor' s degree was introduced for the first time vide government resolution dated 26.5.1992. Perusal of para 2 of the said resolution makes it clear that All India Council for Technical Education vide its letter dated 20.9.1989 had forwarded their recommendations to the State Government for appropriate action. It is thereafter mentioned that after careful consideration of All India Council for Technical Educations package scheme for revision of pay scale and maintenance of standard of technical education the Government has decided to implement the scheme with some modifications in the scales of pay. It is

thus clear that All India Council for Technical Education had recommended to the State Government a scheme which deals with pay revision and maintenance of standard of technical education. Clause 8 of government resolution lays down that the qualification and experience required for the teachers in engineering/technology/architecture, pharmacy and polytechnics are given in appendix V. Appendix V does lay down as one of the qualifications as eligibility criteria for the post of a lecturer and the same is first class bachelor' sdegree in appropriate branch of engineering/technology. No other material has been placed on record either in the form of Government Resolution or rules to indicate the qualifications and eligibility prescribed for the post of lecturer in polytechnic as made applicable to the staff of affiliated colleges and private colleges. Whereas the respondent has placed on record what is title as Norms and Standards for Polytechnic (Diploma Programmes) framed by the All India Council for Technical Education which bears Augusts 1990 to be the time of publication. It does appears that what is referred to in the Government Resolution dated 26.5.92 as having been recommended by All India Council for Technical Education vide its letter dated 20.9.1989 seems to be compiled in the booklet titled as "Norms & Standards for Polytechnics." Rule 6.1.11 provides for the qualifications, experience and job description of teaching staff. For the cadre of lecturer the qualification prescribed is first class Bachelor' sdegree in appropriate branch of engineering/technology. The position in law is clear that it is prerogative of the apex body to lay down the standards of education. The State Government cannot prescribe the qualifications contrary to the one prescribed by the apex body. The said position is clear from the ratio laid down by the Apex Court in the Judgment in the case of **State of T.N.And Anr.** V/s **Adhiyaman**

Educational & Research Institute & Ors., 1995 (4) SCC 104. Though the learned counsel for the petitioner has tried to point out from some subsequent Government Resolutions and circulars that prior to the issuance of Government Resolution dated 26.5.1992 the qualifications prescribed for the post of lecturer in polytechnic was higher second class bachelor' sdegree in appropriate branch of engineering. However, the qualifications prescribed have not been filed on record. As the norms and standards for polytechnic were prescribed by All India Council for Technical Education and made public in August, 1990 same are taken to have been brought into force since then. It has to be so assumed because nothing has been placed on record by either party to point out that since when the norms and standards for polytechnic are brought into force by All India Council for Technical Education. As the norms and standards are published is August, 1990 it has to be assumed that they were in force when the petitioner was appointed as lecturer in September, 1991. In the absence of adequate material and relevant rules on record I do not see any reason to deviate from the view taken by the Tribunal which goes to hold that the eligibility criteria for the post of lecturer in polytechnic in September, 1991 was first class Bachelor' degree in appropriate branch of engineering/ technology. As the petitioner has failed to establish that he was eligible and qualified for being appointed as a lecturer the view taken by the Tribunal cannot be faulted. The petition being devoid of merit the same stands dismissed. Rule discharged with no order as to costs.